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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

**ADIDAS AMERICA, INC., and
ADIDAS-SALOMON AG,**

Plaintiffs,

v.

PAYLESS SHOESOURCE, INC.,

Defendant.

No. CV01-1655 RE (Lead Case)
Related Case CV03-1116 RE

**DEFENDANT'S MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
PLAINTIFFS' CLAIMS OF
WILLFULNESS**

By Defendant Payless ShoeSource, Inc.

Pursuant to Fed. R. Civ. P. 56

ORAL ARGUMENT REQUESTED

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OF WILLFULNESS

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Defendant Payless ShoeSource, Inc., pursuant to Fed. R. Civ. P. 56, respectfully moves this Court for partial summary judgment rejecting plaintiffs adidas America, Inc. and adidas-Salomon AG's allegations of willful infringement. There are no issues of genuine material fact that would support adidas' claim of willful infringement and therefore Payless is entitled to a judgment as a matter of law. Pursuant to Local Rule 7.1, counsel for Payless certifies that the parties have made a good faith effort through personal or telephone conferences to resolve this dispute, but have been unable to do so.

In support of this motion, Payless relies on the pleadings on file, as well as the concurrently filed Memorandum in Support, Concise Statement of Material Facts, and Declaration of Stephen Horace and supporting exhibits.

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WHEREFORE, Payless prays that this Court grant partial summary judgment in Payless' favor, find as a matter of law that Payless did not willfully infringe plaintiffs' rights, and for such further relief as justice so requires.

DATED: June 29, 2007

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